

## 50 CFR Part 17

## Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Two Florida Mints

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines two plants in the mint family, *Dicerandra frutescens* (scrub mint) and *Dicerandra cornutissima* (longspurred mint), to be endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. *Dicerandra frutescens* is known only from two areas in Highlands County, Florida, and *Dicerandra cornutissima* from a single area in Marion County, Florida. Presently known sites for both species are on privately owned land, and the plants are not protected by State or Federal laws. Rapidly expanding commercial and residential development in central Florida has been detrimental to these species in the past and poses a severe threat to their continued survival. This rule will implement the Federal protection and recovery provisions afforded by the Act for these two mints.

**DATES:** The effective date of this rule is December 2, 1985.

**ADDRESSES:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791-2580, or FTS 946-2580).

**SUPPLEMENTARY INFORMATION:****Background**

*Dicerandra frutescens* was first collected in Highlands County, Florida, by Small and Matthaus in 1925, near Lake Sterns (now known as Lake June in

Winter). J.B. McFarlin subsequently collected the species from the same area in 1936. A few additional collections were made during the 1940's and 1950's from the same general area.

Specimens from these collections were variously identified as already described species in the genera *Conradina*, *Dicerandra*, and *Ceranthera*, until Shinners (1962) recognized them as representing a new species which he named *Dicerandra frutescens*.

When Shinners described *Dicerandra frutescens*, he included in that species specimens from Sumter County, Florida. It was not until 1981 that Huck recognized that the Sumter County specimens, as well as specimens from collections in adjacent Marion County, comprised a distinct species which she described under the name *Dicerandra cornutissima*. *Dicerandra cornutissima* was first collected in Sumter County by West and Arnold in 1938; in 1975, Cooper and Martin collected the species in Marion County. Few collections have been made since then, all from a single relatively small area in Marion County. At present, the Sumter County population is thought no longer to exist, and all extant populations of *Dicerandra cornutissima* are believed to be in Marion County. *Dicerandra frutescens* appears to be confined entirely to Highlands County.

*Dicerandra frutescens* is a strongly aromatic plant ranging up to 0.5 meter (1.6 feet) tall, with erect non-woody shoots growing from a woody base. The leaves are 1.5-2.5 centimeters (0.6-1.0 inch) long, narrowly oblong with entire margins and blunt tips, and covered with conspicuous sunken glands. The leaves are borne opposite one another on the stems, with usually two smaller leaves at each node. The flowers are borne in pairs. The corolla (petals) of the flower is about 1.5 centimeters (0.6 inch) long, tubular with upper and lower lips, and white or pale pink with purplish-rose dots. The four stamens protrude from the flowers. Each half of the anther is tipped by a filamentous horn or spur less than 1 millimeter (.04 inch) long.

*Dicerandra cornutissima* is also a strongly aromatic plant up to 0.5 meter (1.6 feet) tall, with erect, non-woody flowering shoots growing from a woody base. Leaves are about 1.5 centimeters (0.6 inch) long, linear, with entire margins, and covered with conspicuous

sunken glands. The leaves are borne opposite one another on the stems, often with two smaller leaves at each node. Flowers are borne in groups in the axils of the leaves on the upper parts of the stems. The corolla is 7 millimeters (0.3 inch) long, tubular, two-lipped, bent at a 90 degree angle in the middle, and purplish-rose with deep purple markings and a whitish throat. The four stamens protrude from the flower; each half of the anther is tipped by a horn or spur about 1.2 millimeters (0.05 inch) long.

Although *Dicerandra cornutissima* was for a long time confused with *Dicerandra frutescens*, the two are readily distinguished. *Dicerandra cornutissima* has narrower leaves, purple-rose flowers (white or pale pink in *frutescens*), the style with few hairs or naked (hairy in *frutescens*), and the anther appendage usually over 1 millimeter (0.04 inch) long (usually less than 1 millimeter long in *frutescens*). Both species exude a strong, pleasant, minty smell.

*Dicerandra frutescens* is endemic to Highlands County, Florida. It occurs in the Southern Central Florida Ridge Sandhill geographical province and in sand pine communities, growing primarily on well-drained Paola yellow fine sand soils. *Dicerandra cornutissima* at one time occurred in Sumter and Marion Counties, Florida, but now is apparently confined to Marion County. It is found only in open areas in sand pine scrub or oak scrub, and in the ecotones between these and turkey oak communities. Both species are known only from private lands and are primarily threatened by commercial development.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. The Secretary of the Smithsonian presented this report (House Document No. 94-51) to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now covered by section 4(b)(3)). On June 16, 1976, the Service published a proposed rule in the **Federal Register** (42 FR 24523) to

determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act.

*Dicerandra frutescens* (including the populations later named *Dicerandra cornutissima* by Huck in 1981) was included in the Smithsonian report, the notice of July 1, 1975, and the proposal of June 6, 1976.

The 1978 Endangered Species Act Amendments required that all proposals over 2 years old be withdrawn, except that a 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of that portion of the June 16, 1976, proposal that had expired, along with four other proposals that had expired (44 FR 70796). On December 15, 1980, the Service published a revised notice of review in the *Federal Register* (45 FR 82480); *Dicerandra frutescens* (again including the populations later named *Dicerandra cornutissima*) was included as a category-2 species (species for which data in the Service's possession indicate listing is possibly appropriate). On November 28, 1983, the Service published in the *Federal Register* (48 FR 53640) a supplement to its 1980 revised notice of review. This supplement listed *Dicerandra cornutissima* as a category-2 species, since Huck had described the plant as distinct from *Dicerandra frutescens* in 1981. Additional biological data have now been gathered on both species that fully support this final rule.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 Amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Dicerandra frutescens* and *Dicerandra cornutissima* because of the acceptance of the 1975 Smithsonian report as a petition. On October 13, 1983, and again on October 12, 1984, the Service found that the petitioned listing for *Dicerandra frutescens* and *Dicerandra cornutissima* was warranted, and that although pending proposals had precluded their proposal, expeditious progress was being made to list other species. The proposed rule to list *Dicerandra frutescens* and *Dicerandra cornutissima* as endangered species was published in the *Federal Register* (50 FR 12587) on March 29, 1985. That proposal constituted the next 1-year finding required on or before October 13, 1985.

In the proposed rule, the common names "scrub balm" and "longspurred

balm" were used for *Dicerandra frutescens* and *Dicerandra cornutissima*, respectively. The Service now feels that "scrub mint" and "longspurred mint" are more suitable for them, and the common names have therefore been changed in this final rule.

#### Summary of Comments and Recommendations

In the March 29, 1985, proposed rule (50 FR 12587) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Lake Placid Journal* and in the *Ocala Star Banner* on April 18, 1985. Six communications were received on the proposal and are discussed below.

Communications were received from the Archbold Biological Station, the Florida Department of Natural Resources, the Florida Game and Fresh Water Fish Commission, the Highlands County Audubon Society, Dr. Robin B. Huck, and a Marion County Commissioner. All were in favor of listing the plants as endangered.

The Marion County Commissioner stated that there is a high probability that *Dicerandra cornutissima* exists in the Cross Florida Barge Canal right-of-way and urged the Service to re-examine these lands while they are still in public ownership. The Service intends to act on this recommendation as soon as possible.

The Archbold Biological Station noted that the information relating to its activities, in the "Summary of Factors Affecting the Species" section of the proposed rule, was not entirely accurate. The Station pointed out that a major portion of its approximately 4,300 acre property is under a fire management plan that will maintain sufficient open-type scrub habitats to assure long-term survival of *Dicerandra frutescens*. The present rule has been modified to incorporate this information. The Station also noted that, although the species is certainly in serious jeopardy in Highlands County, it probably occurs in more than the two places mentioned in the proposal. The Service has not been able to confirm any additional populations to date would welcome any such information.

The four other communications on the proposal supported the listing of the two

plants without additional comments that require response.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Dicerandra frutescens* and *Dicerandra cornutissima* should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Dicerandra frutescens* Shinnery (scrub mint) and *Dicerandra cornutissima* Huck (longspurred mint) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* *Dicerandra frutescens* apparently has always been rare and confined to a small region in Highlands County in central Florida. Today, it is known from only two areas in Highlands County, one near Lake June in Winter, and the other on the Archbold Biological Station. The species does not occur at three sites where it formerly was found in Highlands County. At one of these sites, the habitat is no longer present; the second is now planted in citrus groves; and the third has been clear-cut. The populations that still occur on the Archbold Biological Station are largely in areas undisturbed by people, except for vehicular traffic on the fire lanes. A major portion of the Station's approximately 1,740 hectares (4,300 acres) is under a fire management plan that will maintain sufficient open-type scrub habitat to assure long-term survival of the species. In the Lake June in Winter area, the present sites for the species are surrounded by developments along U.S. Highway 27. The habitat of this species in the pine scrub community near Highway 27 is prime property for development (Wunderlin, 1984a).

*Dicerandra cornutissima* was formerly known from both Sumter and Marion Counties, but the possible site where it occurred in Sumter County is no longer suitable habitat. In Marion County, several of the sites where the species formerly occurred are no longer suitable habitat or are being developed. The species is now known from only a single area approximately 17-18 kilometers (11 miles) south-southwest of Ocala. Much of this area is being

developed, and such development could eliminate the species. Fewer than 4,000 plants are estimated to be present where it still occurs (Wunderlin, 1984b).

Peninsular Florida has one of the highest population growth rates in the United States, and development pressures on the limited area in which these two species occur can only be expected to intensify over the next decade.

**B. Overutilization for commercial, recreational, scientific, or educational purposes.** Both *Dicerandra frutescens* and *Dicerandra cornutissima* are members of the mint family and have the pleasing, strongly aromatic odor associated with mints. They are highly visible, and can be easily identified by the general public; both occur in areas close to highways and human habitation. Because of these factors, they are vulnerable to taking and vandalism. Although they are of no commercial or horticultural interest, sporadic collection for scientific purposes does occur (Wunderlin, 1984a,b).

**C. Disease or predation.** Not applicable.

**D. The inadequacy of existing regulatory mechanisms.** These plants are not protected by State or Federal laws, and do not occur on land under Federal or State jurisdiction (Wunderlin, 1984a,b). Neither of these plants is currently covered by the Preservation of Native Flora of Florida Act.

**E. Other natural or manmade factors affecting its continued existence.** Both species are extremely restricted in range and occur in small numbers. These factors increase their vulnerability to disturbance and natural disasters.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Dicerandra frutescens* and *Dicerandra cornutissima* as endangered. Both species are extremely restricted in range and occur in areas that are prime property for development. All of the populations are on private land, and there are no Federal or State laws that offer them protection. Several sites where they formerly occurred have been lost to commercial and residential development already, and both species are in danger of extinction. Critical habitat is not determined for *Dicerandra frutescens* or *Dicerandra cornutissima* for the reasons discussed in the following section.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. *Dicerandra frutescens* and *Dicerandra cornutissima* are mints that have pleasing aromatic odors and would be of interest to the general public. They are very visible and readily identifiable and occur in areas with easy access, near human habitations and highways. There are no Federal and State laws that protect them, so it would not be possible to safeguard them from curiosity seekers or vandals. To delineate precisely where these plants occur, through publication of critical habitat descriptions and maps in the Federal Register, would therefore increase the threats to the species. These plants are found only on privately owned lands where no Federal involvements are known at present.

Should future Federal activities take place in the areas in which *Dicerandra frutescens* and *Dicerandra cornutissima* occur, the Service believes that such activities will be brought to its attention without the designation of critical habitat. Since a determination of critical habitat could create a threat to these species by increasing the possibility of taking and/or vandalism by the public and would provide the plants with no additional protection, it would not be prudent to determine critical habitat for them at this time.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species

that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since all presently known sites for both *Dicerandra frutescens* and *Dicerandra cornutissima* are on privately owned land, there will be no effect on Federal agencies from the above requirement unless a private action requires some Federal involvement.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and expectations that apply to all endangered plant species. With respect to *Dicerandra frutescens* and *Dicerandra cornutissima*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits will ever be sought or issued since these species are neither in cultivation nor common in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition will apply to *Dicerandra frutescens* and *Dicerandra cornutissima*; however, since neither species is known at present from Federal lands, this prohibition would not have a substantive effect. Permits for exceptions to this prohibition are available through revised regulations published September 30, 1985 (50 FR 39681), to be codified at 50 CFR 17.62. Requests for copies of the regulations on

plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, Rm. 600-Broyhill Building, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

#### Literature Cited

Huck, R.B. 1981. *Dicerandra cornutissima*: A new woody labiate from Florida. *Phytologia* 47:313-316.

Shinners, L.H. 1962. Synopsis of *Dicerandra* (Labiatae). *Sida* 1:89-91.

Wunderlin, R.P. 1984a. Status report on *Dicerandra frutescens* Shinners.

Unpublished report prepared under contract with U.S. Fish and Wildlife Service, 30 pp.

Wunderlin, R.P. 1984b. Status report on *Dicerandra cornutissima* Huck.

Unpublished report prepared under contract with U.S. Fish and Wildlife Service, 25 pp.

#### Authors

The primary authors of this final rule are John L. Paradiso and David Martin, Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791-2580 or FTS 946-2580).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Regulation Promulgation

#### PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 153 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under Lamiaceae, to the List of Endangered and Threatened Plants:

#### § 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \*

| Species                              |                       | Historic range   | Status | When listed | Critical habitat | Special rules |
|--------------------------------------|-----------------------|------------------|--------|-------------|------------------|---------------|
| Scientific name                      | Common name           |                  |        |             |                  |               |
| Lamiaceae—mint family: *             | *                     | *                | *      | *           |                  |               |
| <i>Dicerandra cornutissima</i> ..... | Longspurred mint..... | U.S.A. (FL)..... | E      | 207         | NA               | NA            |
| <i>Dicerandra frutescens</i> .....   | Scrub mint.....       | U.S.A. (FL)..... | E      | 207         | NA               | NA            |
| * .....                              | * .....               | * .....          | *      | *           |                  |               |

Dated: October 8, 1985.

P. Daniel Smith,

Acting Deputy Assistant Secretary for Fish and Wildlife and Parks.

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